

REPRESENTATIVE FOR PETITIONER: Jason Burton, Pastor

REPRESENTATIVE FOR RESPONDENT: Beverly Fields, Randolph County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Cornerstone Baptist Church,	)	Petitions:	68-019-16-2-8-00703-18
	)		68-019-17-2-8-00704-18
Petitioner,	)		68-019-16-2-8-00705-18
	)		68-019-17-2-8-00706-18
)		
v.)		
	)	Parcels:	No. 68-02-25-130-039.000-019
	)		No. 68-02-25-130-040.000-019
Randolph County Assessor,)		
	)	County:	Randolph
Respondent.)		
	)	Assessment Years:	2016 & 2017

January 23, 2019

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Cornerstone Baptist Church (“CBC”) appealed the revocation of its property tax exemption for 2016 and 2017 by the Randolph County Property Tax Assessment Board of Appeals (“PTABOA”). During those years, CBC continued to use the property for religious purposes. Thus, it was not required to reapply for an exemption under Indiana Code § 6-1.1-11-4(d). We find the subject property is 100% exempt for the years under appeal.

PROCEDURAL HISTORY

2. The Assessor sent a letter to CBC on June 25, 2015 requesting a Form 136 application for the 2016 assessment year.¹ The Assessor did not receive a reply², and subsequently designated the parcels as non-exempt and the Treasurer issued tax notices in April 2017 for taxes due in 2016 and 2017.³
3. CBC responded to the Assessor both in person in April and by letter dated July 19, 2017. The letter stated that the subject property was still used for religious purposes, and that the church would not file a Form 136 based on religious objection.
4. On December 4, 2017, the PTABOA met, reviewed CBC's letter and granted an exemption for taxes due 2019. The PTABOA denied an exemption for assessment years 2016 and 2017, stating that the church had failed to meet its obligation to timely respond to the Assessor's request. No Form 120 was issued as a result of this decision. CBC filed their Form 132s for the 2016 and 2017 assessment years on June 20, 2018.
5. On October 25, 2018, the Board's designated Administrative Law Judge ("ALJ"), David Smith, held a hearing on CBC's petitions. Neither the Board nor the ALJ inspected the subject property. Jason Burton and Michael Keith Hoover, Jr., and Beverly Fields, the Randolph County Assessor, testified under oath or affirmation.
6. The Parties offered the following exhibits, all of which were admitted without objection:

Petitioner's Exhibit 1:	Burns Ind. Code Ann. § 6-1.1-10-21 (2017),
Petitioner's Exhibit 2:	Letter from former Pastor to Assessor dated May 2, 1997,
Petitioner's Exhibit 3:	Letter from former Pastor to Auditor dated May 16, 1996,
Petitioner's Exhibit 4:	Letter from Auditor to former Pastor dated April 26, 1995,

¹ This letter was sent after the Assessor could not find documentation related to the subject property during a review of Randolph County exemptions.

² The Assessor testified that a member of her staff also inquired at the church in person but no one was there.

³ The PTABOA, not the Assessor, is empowered to rescind exemptions and issue Form 120 Notices pursuant to I.C. § 6-1.1-11-7(c). In this case, it does not appear that procedure was followed.

- Petitioner's Exhibit 5: Letter from former Pastor to Auditor dated April 19, 1995,
- Petitioner's Exhibit 6: Letter from former Pastor to Auditor dated May 8, 1990,
- Petitioner's Exhibit 7: Letter from Auditor to former Pastor dated March 14, 1989,
- Petitioner's Exhibit 8: 1989 Attorney General Opinion dated April 25, 1989,
- Petitioner's Exhibit 9: Letter from Auditor to former Pastor dated April 13, 1995,
- Petitioner's Exhibit 10: Letter from former Pastor to Auditor dated April 11, 1995,
- Petitioner's Exhibit 11: Letter from Pastor to Auditor dated July 19, 2017,
- Petitioner's Exhibit 12: Decision of *Trinity Springs Baptist Church v. Martin County Assessor*, (IBTR, April 21, 2014),
- Petitioner's Exhibit 13: 2015 Tax Card for parcel 68-02-25-130-040.000-019
- Petitioner's Exhibit 14: 2018 Tax Card for parcel 68-02-25-130-040.000-019
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- Respondent's Exhibit 1: Respondent's letter to Petitioner dated June 25, 2015,
- Respondent's Exhibit 2: Blank Form 136,
- Respondent's Exhibit 3: Petitioner's letter dated July 19, 2017
- Respondent's Exhibit 4: Minutes from PTABOA hearing held December 4, 2017,
- Respondent's Exhibit 5: Petitioner's letter dated April 23, 2018,
- Respondent's Exhibit 6: Respondent's letter to Petitioner dated April 30, 2018,
- Respondent's Exhibit 7: 2016-2017 property record cards for subject parcels.

7. The record also includes the following: (1) all pleadings, briefs and documents filed in the current appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

FINDINGS OF FACT

8. The subject property consists of two parcels with a church building and parking lot. CBC continually used the subject property for religious worship from 1989 through the years at issue. *Burton testimony*.

9. CBC has a religious objection to filing an application for a property tax exemption. In lieu of an application, it has submitted “letters of notification” based on a 1989 opinion from the Indiana Attorney General that stated this was sufficient. *Burton and Hoover testimony; Pet’r Exs. 2, 3, 5, 6, 8, and 10.*

BURDEN OF PROOF

10. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *See Indianapolis Osteopathic Hospital, Inc. v. Dep’t of Local Gov’t Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). A taxpayer bears the burden of proving that its property qualifies for an exemption. *Id.* Exemption statutes are strictly construed against the taxpayer. Every exemption case “stand[s] on its own facts,” and it is the Petitioner’s duty to walk the Board through the analysis. *Id.*

CONCLUSIONS OF LAW

11. Indiana Code § 6-1.1-10-21 provides an exemption for buildings and land used for religious worship. Once granted an exemption, religious organizations are not required to file a new application for subsequent years if (1) a proper application was filed at least once, and (2) the use of the property continues to meet the requirements for an exemption. *See Ind. Code § 6-1.1-11-4.*
12. The Assessor did not dispute that the subject property continued to be used for religious worship during the years at issue.⁴ She also did not dispute that CBC’s “letters of notification” were sufficient to meet the application requirements. The Assessor’s failure to maintain records of these letters does not give her the authority to require a religious organization to file a new application absent any change in the use of the property. In addition, it appears the Assessor removed CBC’s exemption herself. The authority to remove exemptions is vested in the PTABOA, rather than the Assessor. *See Ind. Code §*

⁴ Fields went on to testify that she would have “no problem” with the Board granting CBC’s request for an exemption. *Fields testimony.*

6-1.1-11-7. Although the PTABOA later agreed with this action, no Form 120 was ever issued. For these reasons we find CBC was not required to file a new exemption application and its exemption was improperly removed.

CONCLUSION

In accordance with the above findings of fact and conclusions of law, we find the subject property is 100% exempt from taxation for the 2016 and 2017 assessment years.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.